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September 24, 2004

TO: Each Supervisor

FROM: Thomas L. Garthwaite, M.D.
Director and Chief Medical Officer

Donald L. Wolfe
Interim Director of Public Works

SUBJECT: **DEVELOPMENT OF STATEWIDE STANDARDS FOR ON-SITE
WASTEWATER TREATMENT SYSTEM**

This report is in response to the Board's June 22, 2004 motion by Supervisor Yaroslavsky instructing the Directors of Public Works and Health Services to prepare a report on the development of Statewide standards for on-site wastewater treatment systems, and on the progress of negotiations with the Regional Water Quality Control Board (RWQCB) for the County's Memorandum of Understanding (MOU) for On-site Wastewater Treatment Systems (OWTSs). An estimate of the resources that will be necessary to complete the inventory of OWTSs in unincorporated areas of the County is also included.

The Status of Development of Statewide Standards for On-site Systems

Pursuant to Assembly Bill 885, the State Water Resources Control Board (SWRCB) was charged to develop Statewide requirements for the regulation of the OWTSs that could affect water quality. Those Statewide requirements were supposed to be implemented by January 1, 2004. For a number of reasons, the deadline was not met. The SWRCB published internal draft regulations for review by stakeholders on May 25, 2004.

On July 21, 2004, SWRCB convened a stakeholders meeting for input on the May 25 internal draft regulations. The major organizations present were the California Conference of Directors of Environmental Health, The California Onsite Wastewater Organization, the Regional Council of Rural Counties, Heal the Bay, the California Environmental Health Association, and representatives from two Regional Water Quality Control Boards. While some agenda issues were resolved, there are a number of significant remaining issues regarding how prescriptive the Statewide requirements would need to be in order to adequately protect the beneficial uses of the waters of the State.

A meeting of representatives of key stakeholders was held on September 7-8, 2004, in Sacramento, to attempt to resolve these major remaining issues in the draft Statewide regulations. Los Angeles County was represented at this meeting. SWRCB offered substantial changes to the current draft regulations and tentative agreement was reached on some of the major issues. Stakeholder comments will be integrated and revised regulations are expected to be circulated by the end of October 2004.

Eventually, the SWRCB will release the final draft regulations for public comment. When the regulations have been finalized by the SWRCB, they will be reviewed by the Office of Administrative Law and an environmental document will be prepared. The Environmental Impact Report process is expected to take at least one year. It is estimated that the draft Statewide regulations will not be completed until January 2006. As currently drafted, the first phase of the regulations would take effect beginning January 1, 2007.

Potential Impacts of the Draft Statewide Standards

The internal draft regulations, if they are substantially incorporated into the final AB 885 regulations, would require:

1. A higher standard for all onsite systems adjacent to waterbodies that have been identified as impaired under Section 303(d) of the 1972 Clean Water Act. This statute requires states to develop a list of the surface waters that do not meet water quality standards. This law requires the State to develop action plans for the waters on this list to improve water quality.
2. Performance standards for all systems that have the potential to impact groundwater quality.
3. Renewable operating permits as a means of managing alternative and enhanced OWTSS which require a high level of monitoring and maintenance oversight.
4. Prescriptive standards for the design and siting criteria used to approve OWTSS. This takes into account site specific factors such as soil characteristics that determine system sizing, separation to surface and ground waters, and topography.
5. An expanded definition of what constitutes failure of an OWTS to include systems that do not meet specific performance standards and pose a potential threat to groundwater quality.

The impact on the County will be an increase in workload and necessary training in order to enforce the expanded standards and to provide management oversight for the performance of all regulated onsite systems. This affects the Departments of Health Services and Public Works. At this juncture, given that the regulations have not been circulated for public comment and there is still the chance that the regulations will be significantly modified, it is impossible to provide an estimate on the additional funds needed to comply. It is safe to conclude, however, that some additional level of regulation of OWTSSs, including those within the unincorporated areas of the County, will be required. These regulations also will affect all incorporated cities with OWTSSs.

The Progress of MOU Negotiations with the Regional Water Quality Control Board

As we have previously advised, staff from the Departments of Health Services and Public Works assisted by County Counsel, have been negotiating the terms of a Memorandum of Understanding (MOU) with the Los Angeles Regional Water Quality Control Board (RWQCB) that would enable the County to continue regulating OWTSSs within the unincorporated areas of the County. Staff reached a tentative agreement on the terms of the MOU with RWQCB staff in late July.

On August 5, 2004, the RWQCB approved a resolution adopting waivers of Waste Discharge Requirements and a MOU for residential onsite wastewater treatment systems in the County of Los Angeles that essentially tracked the draft worked out by County and RWQCB staff. This MOU shall become effective upon adoption by the County Board of Supervisors.

At its September 2, 2004, meeting, the RWQCB adopted stringent General Waste Discharge Requirements for OWTSSs in the Los Angeles Region affecting operators of both new and certain existing systems. However, if the County and the RWQCB enter into the MOU, the Waste Discharge Requirements will not be enforced against residents in the unincorporated areas. The LA RWQCB does not have jurisdiction over OWTSSs in the Palmdale/Lancaster area. These systems are within the jurisdiction of the Lahontan RWQCB, which has elected not to require Waste Discharge Requirements at this time.

Included in the MOU are various "interim measures" intended primarily to address failing OWTSSs and to require owners of alternative or enhanced systems, which are installed in areas where there is insufficient soil below the system to ensure complete treatment, to obtain an annual permit. An ordinance will need to be approved by the Board of Supervisors in order to instigate this new permit process. In addition, the MOU calls for the County to inventory all OWTSSs in the County, both new and existing, over a ten-year period. The MOU also would require the County to implement AB 885 regulations, through possible amendment of the County Code. The MOU provides that it may be terminated by either the County or the RWQCB.

It should be noted that while the MOU does not cover incorporated cities that contract with the County for various OWTSS-related building and safety or health services, a city may enter into a separate MOU with the RWQCB. County staff have already advised the cities of this responsibility.

Estimate of Resources Necessary to Complete an Inventory of Onsite Systems in the Unincorporated area of the County and Fulfill the Commitments of the MOU:

Because of the lack of an existing data base of OWTSSs, and the uncertainties of requirements when the AB885 regulations are issued, it is not possible to provide a good estimate of the cost of developing the required inventory over the next 10 years and it is unlikely that grant funds will be available to support all of these costs. However, based on available information the Department of Health Services indicates that the start up costs to begin the inventory in FY 2004-05 will not exceed \$100,000. DHS will identify funding from within its existing resources. DHS will return to the Board in the FY 2005-06 Budget to request funding for the ongoing inventory development costs. The departments are currently reviewing possibilities for combining Assessor's records with information available in DPW and DHS in developing the inventory.

The Los Angeles County Plumbing Code prescribes the minimum standards for OWTSSs including the presence of a soil matrix to provide for treatment of the sewage effluent before it reaches groundwater. Where this soil matrix is absent, appropriate advanced treatment of the effluent prior to discharge can achieve equivalent pathogen and contaminant reduction to protect ground water quality. Such advanced treatment systems require considerable maintenance and oversight to ensure a consistent and acceptable level of performance. This will require the establishment of a renewable operating permit from the Department of Health Services to provide for management oversight of these systems and to recover costs associated with this service.

If you have any questions or need additional information, please let us know.

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c: Chief Administrative Officer
County Counsel
Executive Office, Board of Supervisors